

Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ISO-00 CAB-09 L-03 CIAE-00 COME-00

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DRAFTED BY EB/AN:NLPZDRAL:DAP

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CAB - T. LARGAY

EUR/NE - MR. DOOLEY (SUBS)

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FM SECSTATE WASHDC

TO AMEMBASSY LONDON IMMEDIATE

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E.O. 11652: N/A

TAGS: ETRN, UK

SUBJECT: CIVAIR: CAB ACTION AGAINST BRITISH CALEDONIAN

REF: LONDON 9074

1. CAB'S BUREAU OF ENFORCEMENT JULY 17 FILED COMPLAINT AGAINST BRITISH CALEDONIAN AIRWAYS (BCAL), TOGETHER WITH SEVERAL OTHER RESPONDANTS. COMPLAINT IS TWO-PRONGED IN THAT IT ALLEGES BCAL (A) COMMITTED ACTS PROHIBITED BY US REGULATION, AND (B) THAT IN ADDITION TO PENALTIES WHICH MIGHT BE IMPOSED AS A RESULT OF (A), THESE OFFENSES ALSO REFLECT ON SUITABILITY OF BCAL AS APPLICANT FOR AMENDMENT TO FOREIGN AIR CARRIER PERMIT.

2. SPECIFICALLY, BOE COMPLAINT CHARGES THAT, BETWEEN MARCH AND OCTOBER, 1973, BCAL CARRIED SOME 3500 GROUP INCLUSIVE TOUR (GIT) PASSENGERS AT RATES LOWER THAN APPROVED TARIFFS. THESE WERE "OVERFLOW" PASSENGERS FROM TOURS ARRANGED BY CORRESPONDANT TOURIST AGENCIES, WHO COULD NOT BE CARRIED ON ORIGINALLY-SCHEDULED TRANSPORTATION BECAUSE OF OVERBOOKING

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BY AGENCIES. COMPLAINT ALSO ALLEGES THAT IN SOME CASES

BCAL COLLECTED CAB-APPROVED FARES BUT KICKED BACK TO AGEN-
CIES DIFFERENCE BETWEEN THAT AND LOWER AMOUNT AGREED BETWEEN
AGENCY AND BCAL AS PRICE OF CARRIAGE.

3. PROCEDURALLY, BOE COMPLAINT IS MOTION FOR ENFORCEMENT,

WITH SEPARATE MOTION TO CONTEMPORANEOUSLY CONSIDER FACTS
OF COMPLAINT IN CONNECTION WITH 402 PERMIT AMENDMENT NOW
BEFORE CAB. WITH RESPECT TO LATTER, BOE COMPLAINT CHAL-
LENGES BCAL FITNESS AND ABILITY TO PERFORM SERVICES CON-
TEMPLATED BY 402 PERMIT APPLICATION ON GROUNDS BCAL KNOW-
INGLY COMMITTED ILLEGAL ACTS, AND KNOWINGLY ENTERED INTO
ILLEGAL AGREEMENT TO PERFORM SUCH ACTS; BCAL SHOULD
THEREFORE BE CONSIDERED AS HAVING "KNOWINGLY MISREPRE-
SENTED" ITS FITNESS AND ABILITY IN 402 PERMIT AMENDMENT
APPLICATION TO CAB.

4. COMPLAINT IS MATTER OF PUBLIC RECORD AND DETAILS
ABOVE MAY BE RELEASED AT EMBASSY'S DISCRETION. COPY COM-
PLAINT BEING POUCHED. INGERSOLL

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